

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	CRIMINAL NO. <u>03-306-1</u>
v.	:	DATE FILED: _____
MICHAEL KOGAN	:	VIOLATIONS: 18 U.S.C. § 1341 (mail fraud - 169 counts)
	:	18 U.S.C. § 1343 (wire fraud - 6 counts)
	:	18 U.S.C. § 2 (aiding and abetting)
	:	18 U.S.C. § 981(a)(1)(C) & 28 U.S.C. § 2461(c) (forfeiture)

S E C O N D S U P E R S E D I N G I N D I C T M E N T

THE GRAND JURY CHARGES THAT:

INTRODUCTION

At all times relevant to this Indictment:

1. The defendant MICHAEL KOGAN was the president of a corporation known as Kogan & Company, Inc., with an office at 261 Old York Road, Jenkintown, Pa., first located in Suite 621 and later located in Suite 635.

2. Neither Kogan & Company, Inc. nor the defendant MICHAEL KOGAN was licensed to conduct securities transactions on behalf of others by the National Association of Securities Dealers ("NASD").

3. Until approximately March 11, 2003, Penn Financial Group, Inc. ("PFG") was a broker/dealer licensed by the NASD, operating a brokerage firm at 261 Old York Road, Suite 633,

Jenkintown, PA ("Suite 633"), on the same floor as the office of Kogan & Company, Inc.

4. Fiserv Securities, Inc. ("Fiserv") was a clearing house that contracted with PFG to hold and process its brokerage accounts, including executing securities trades in the accounts, transferring or wiring funds into and out of the accounts, processing deposits of funds into the accounts and withdrawals of funds from the accounts, and causing statements to be sent to PFG's clients reflecting activity in the accounts.

5. Fiserv normally did not deal directly with PFG's clients, but held and serviced all of the accounts for PFG's clients upon direction from PFG.

6. The defendant MICHAEL KOGAN had access to the office of PFG in Suite 633 and freely used the facilities of PFG in Suite 633, including the facsimile machine and the Federal Express account of PFG.

7. The president of PFG provided the defendant MICHAEL KOGAN with the PFG password for Fiserv's computer system, which enabled the defendant MICHAEL KOGAN to access PFG's accounts held at Fiserv.

8. The following investors, among others, entrusted securities and funds to the defendant MICHAEL KOGAN for investment in accounts at PFG/Fiserv: M.B. and L.B. (husband and

wife); Y.B.; A.D.; M.L. on behalf of F.O.X. International Relations, Inc., an investment club; G.S. and F.S. (husband and wife); and A.N. and L.S. (husband and wife), on their own behalf, and on behalf of L.S.'s father, G.Sh.

THE SCHEME TO DEFRAUD

9. From in or about January 2000, through the present, in the Eastern District of Pennsylvania and elsewhere, the defendant

MICHAEL KOGAN

devised and intended to devise a scheme to defraud investors and to obtain money and property from investors by means of false and fraudulent pretenses, representations and promises.

10. It was part of the scheme that:

(a) the defendant MICHAEL KOGAN falsely held himself out to investors as an authorized representative of PFG;

(b) the defendant MICHAEL KOGAN concealed from investors that in January 2000 his securities broker's license had been suspended by the NASD for misconduct and that he had not re-applied for his license;

(c) the defendant MICHAEL KOGAN solicited and accepted for deposit at PFG/Fiserv investments valued at more than \$4 million, including stocks, checks and cash;

(d) the defendant MICHAEL KOGAN often used the Federal Express account of PFG to enable investors to mail their investment checks to him at PFG;

(e) the defendant MICHAEL KOGAN falsely represented to investors that their investments were held in accounts in their names or the names of their businesses at either PFG or Fiserv;

(f) the defendant MICHAEL KOGAN provided some investors with a Fiserv brochure and Fiserv account applications, thus creating the impression that their investments were held in accounts at Fiserv;

(g) the defendant MICHAEL KOGAN often met with investors and potential investors at the offices of PFG, thus creating the impression that their investments were being made through PFG, a licensed broker;

(h) the defendant MICHAEL KOGAN diverted into accounts under his control many investors' checks, and a \$1 million incoming wire transfer, all of which were intended for deposit in investors' purported investment accounts at PFG or Fiserv;

(i) for accounts that were in fact opened for investors at Fiserv through PFG, the defendant MICHAEL KOGAN diverted the investors' funds out of those accounts into accounts under his control at Fiserv and elsewhere;

(j) for accounts that were in fact opened for investors at Fiserv through PFG, the defendant MICHAEL KOGAN caused false addresses to be provided to Fiserv, so that the true statements for those accounts, showing the diversion of their investment funds, were never sent to the investors;

(k) for all of the accounts that the investors thought they had at PFG or Fiserv, the defendant MICHAEL KOGAN caused false information to be provided to the investors regarding their account balances, concealing from them his diversion of their investment funds, and falsely reporting to them substantial profits on their investments;

(l) for many of the accounts that investors thought they had at PFG or Fiserv, the defendant MICHAEL KOGAN caused false monthly account statements, concealing the diversion of their funds and reporting substantial purported profits, to be sent by United States mail to the investors at their correct addresses, including, M.B. and L.B. (husband and wife); Y.B.; A.D.; G.S. and F.S. (husband and wife); and A.N. and L.S. (husband and wife), on their own behalf, and on behalf of L.S.'s father, G.Sh.;

(m) for one of the investors, M.L., who thought he had an account at PFG or Fiserv for F.O.X. International Relations, Inc., an investment club, the defendant MICHAEL KOGAN set up an internet web site for M.L. to access, which reported false account balances, concealing the defendant

MICHAEL KOGAN's diversion of the funds and reporting substantial purported profits;

(n) annually, the defendant MICHAEL KOGAN prepared letters for M.L. to sign and mail to the participants in F.O.X. International Relations, Inc., reporting to those participants substantial purported earnings on their investments;

(o) after diverting the investors' funds without authority, the defendant MICHAEL KOGAN used their funds for matters not authorized by them, including the repayment of earlier investors.

COUNTS 1 - 8
(SENDING INVESTMENTS VIA FEDERAL EXPRESS)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of the Introduction to this Indictment are incorporated here.

2. On or about the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme and attempting to do so, knowingly caused to be delivered to 261 Old York Road, Suite 633, Jenkintown, PA, by commercial interstate carrier, that is, Federal Express, according to the directions thereon, the following:

<u>Count</u>	<u>Approximate Delivery Date</u>	<u>Sender</u>	<u>Recipient</u>	<u>Contents</u>
1	10/13/01	M.B.	Mike Kogan	\$100,000 check from Splash of Tile, Inc.
2	2/18/02	L.B.	Mike Kogan	\$100,000 check from Splash of Tile, Inc. and \$50,000 check from M.B. and L.B.
3	5/4/02	L.B.	Mike Kogan	\$40,000 check from Splash of Tile, Inc.
4	5/14/02	A.N.	Mike Kogan	\$170,000 check from G.Sh.
5	6/15/02	M.B.	Mike Kogan	\$6,045 check from M.B. and L.B.

<u>Count</u>	Approximate <u>Delivery</u> <u>Date</u>	<u>Sender</u>	<u>Recipient</u>	<u>Contents</u>
6	7/25/02	A.N.	Mike Kogan	\$200,000 check from A.N.
7	10/9/02	A.N.	Mike Kogan	\$200,000 check from A.N.
8	11/25/02	A.N.	Mike Kogan	\$100,000 check from A.N.

All in violation of Title 18, United States Code, Sections
1341 and 2.

COUNT 9

(MAILING AN INVESTMENT VIA UNITED STATES MAIL)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of the Introduction to this Indictment are incorporated here.

2. On or about the date set forth below, in the Eastern District of Pennsylvania and elsewhere, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme and attempting to do so, knowingly caused to be delivered by mail, to 261 Old York Road, Suite 633, Jenkintown, PA, according to the directions thereon, the following:

<u>Count</u>	<u>Approximate Mailing Date</u>	<u>Sender</u>	<u>Recipient</u>	<u>Contents</u>
9	3/10/02	A.N.	Mike Kogan	\$100,000 check from G.Sh.

In violation of Title 18, United States Code, Sections 1341 and 2.

COUNT 10

(WIRING AN INVESTMENT VIA INTERNATIONAL WIRE)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of the Introduction to this Indictment are incorporated here.

2. On or about the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme, caused to be transmitted by means of wire communication in foreign commerce the signals and sounds, described below, constituting the electronic transmission of funds from the account of International Alternatives Service Group, Inc. at Credit Suisse (Bahamas) to the account of Equity Allocation Partners at PFG/Fiserv:

<u>Count</u>	<u>Approximate Transmission Date</u>	<u>Amount</u>
10	February 25, 2003	\$1 million

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNTS 11 - 153
(MAILING FALSE ACCOUNT STATEMENTS)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of the Introduction to this Indictment are incorporated here.

2. On or about the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme and attempting to do so, knowingly caused to be placed in an authorized depository for mail matter in the Eastern District of Pennsylvania to be sent or delivered by the Postal Service, the following false account statements which purported to represent funds invested at PFG/Fiserv, together with substantial earnings thereon, when, in fact, either no such account existed at PFG/Fiserv or the true account balance was substantially lower than stated:

Account for A.D., No. 51751064

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
11	3/30/01- 4/30/01	5/1/01	\$149,675.80	\$9,776.32
12	6/29/01- 7/31/01	8/17/01	\$151,454.90	\$ 106.42
13	7/31/01- 8/31/01	9/26/01	\$152,039.91	\$ 0.01

Account for A. D., No. 51751064 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
14	8/31/01- 9/28/01	10/22/01	\$152,636.36	\$ 0.01
15	9/28/01- 10/31/01	11/19/01	\$153,238.16	\$ 0.01
16	10/31/01- 11/30/01	12/4/01	\$153,845.45	\$ 0.01
17	1/31/02- 2/28/02	3/8/02	\$155,686.59	\$ 0.01
18	2/28/02- 3/28/02	4/5/02	\$156,310.01	\$ 0.01
19	2/28/02- 3/28/02	5/10/02	\$156,935.49	\$ 0.01
20	5/31/02- 6/28/02	7/12/02	\$158,222.93	\$ 0.01
21	6/28/02- 7/31/02	8/9/02	\$158,873.21	\$ 0.01
22	7/31/02- 8/30/02	9/6/02	\$159,525.62	\$ 0.01
23	8/30/02- 9/30/02	10/10/02	\$160,187.31	\$ 0.01
24	9/30/02- 10/31/02	11/12/02	\$160,852.33	\$ 0.01
25	10/31/02- 11/29/02	12/3/02	\$161,521.60	\$ 0.01
26	12/31/02- 1/31/03	2/19/03	\$162,869.42	\$ 0.01

Account for G.S. & F.S., JT-TEN, No. 51751568

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
27	6/29/01- 7/31/01	8/1/01	\$358,519.55	\$252,652.93
28	7/31/01- 8/31/01	9/1/01	\$338,489.76	\$240,375.27
29	8/31/01- 9/28/01	10/1/01	\$297,158.18	\$214,198.51
30	9/28/01- 10/31/01	11/1/01	\$311,688.65	\$132,150.39
31	10/31/01- 11/30/01	12/1/01	\$330,255.21	\$ 474.61
32	11/30/01- 12/31/01	1/1/02	\$344,256.26	\$ 475.22
33	12/31/01- 1/31/02	2/1/02	\$326,821.29	\$ 475.79
34	1/31/02- 2/28/02	3/1/02	\$306,355.66	\$ 476.23
35	2/28/02- 3/28/02	4/1/02	\$328,346.09	\$ 476.60
36	3/28/02- 4/30/02	5/1/02	\$314,939.39	\$ 476.94
37	4/30/02- 5/31/02	6/1/02	\$303,294.86	\$ 477.29
38	5/31/02- 6/28/02	7/1/02	\$278,493.39	\$ 477.64
39	6/28/02-	8/1/02	\$248,494.85	\$ 478.00

	7/31/02				
40	7/31/02- 8/30/02	9/1/02	\$248,851.95	\$	478.34

Account for G.S. & F.S., JT-TEN, No. 51751568 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>		<u>True Account Balance</u>
41	8/30/02- 9/30/02	10/1/02	\$232,833.10	\$	478.66
42	9/30/02- 10/31/02	11/1/02	\$245,806.72	\$	479.00
43	10/31/02- 11/29/02	12/1/02	\$260,641.80	\$	479.31
44	12/31/02- 1/31/03	2/1/03	\$245,456.61	\$	480.59
45	1/31/03- 2/28/03	3/1/03	\$242,969.74	\$	480.59

Account for G.S., No. 51751455

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>		<u>True Account Balance</u>
46	5/31/01- 6/29/01	7/1/01	\$107,862.38	\$	267.85
47	6/29/01- 7/31/01	8/1/01	\$ 84,893.91	\$	268.52
48	7/31/01- 8/31/01	9/1/01	\$ 86,367.86	\$	269.16
49	8/31/01- 9/28/01	10/1/01	\$ 72,547.43	\$	269.75
50	9/28/01-	11/1/01	\$ 88,111.12	\$	270.27

	10/31/01				
51	10/31/01- 11/30/01	12/1/01	\$102,709.03	\$	270.62
52	11/30/01- 12/31/01	1/1/02	\$ 97,275.96	\$	270.94

Account for G.S., No. 51751455 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>		<u>True Account Balance</u>
53	12/31/01- 1/31/02	2/1/02	\$121,168.71	\$	160.81
54	1/31/02- 2/28/02	3/1/02	\$100,844.03	\$	160.97
55	2/28/02- 3/28/02	4/1/02	\$103,710.82	\$	161.03
56	3/28/02- 4/30/02	5/1/02	\$ 90,335.05	\$	161.08
57	4/30/02- 5/31/02	6/1/02	\$ 85,705.73	\$	161.13
58	5/31/02- 6/28/02	7/1/02	\$ 80,599.06	\$	161.18
59	6/28/02- 7/31/02	8/1/02	\$117,137.58	\$	161.23
60	7/31/02- 8/30/02	9/1/02	\$117,193.70	\$	161.28
61	8/30/02- 9/30/02	10/1/02	\$ 94,671.75	\$	161.33
62	9/30/02- 10/31/02	11/1/02	\$108,810.03	\$	161.37
63	10/31/02-	12/1/02	\$130,261.54	\$	161.43

	11/29/02				
64	11/29/02- 12/31/02	1/1/03	\$113,449.68	\$	161.45
65	12/31/02- 1/31/03	2/1/03	\$113,824.66	\$	161.60
66	1/31/03- 2/28/03	3/1/03	\$118,068.98	\$	161.60

Purported Account for G.S., No. 517-51455-1-3

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
67	period ending 2/28/01	3/1/01	\$10,218.72	no account
68	period ending 3/30/01	4/1/01	\$10,468.20	no account
69	period ending 4/30/01	5/1/01	\$10,706.39	no account
70	period ending 5/31/01	6/1/01	\$10,967.52	no account
71	period ending 6/29/01	7/1/01	\$11,223.93	no account
72	period ending 7/31/01	8/1/01	\$41,829.84	no account
73	period ending 8/31/01	9/1/01	\$22,312.46	no account

74	period ending 11/30/01	12/1/01	\$23,826.03	no account
75	period ending 12/31/01	1/1/02	\$24,349.52	no account
76	period ending 1/31/02	2/1/02	\$24,868.44	no account

Purported Account for G.S., No. 517-51455-1-3 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
77	period ending 2/28/02	3/1/02	\$25,417.63	no account
78	period ending 4/30/02	5/1/02	\$26,479.31	no account
79	period ending 5/31/02	6/1/02	\$27,030.21	no account
80	period ending 6/29/02	7/1/02	\$27,590.99	no account
81	period ending 7/31/02	8/1/02	\$28,148.60	no account

Account for Splash of Tile, Inc., Attn: M.B., No. 51751851

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
82	10/31/01-	12/1/01	\$100,668.28	\$ 100.13

	11/30/01			
83	12/31/01- 1/31/02	2/1/02	\$ 1,046.58	\$ 100.23
84	1/31/02- 2/28/02	3/1/02	\$101,358.72	\$ 4.84
85	2/28/02- 3/28/02	4/1/02	\$103,984.15	\$ 4.84
86	3/28/02- 4/30/02	5/1/02	\$146,809.63	\$ 7.97
87	4/30/02- 5/31/02	6/1/02	\$150,671.47	\$ 7.97

Account for Splash of Tile, Inc., Attn: M.B., No. 51751851 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
88	5/31/02- 6/28/02	7/1/02	\$196,637.04	\$ 7.97
89	6/28/02- 7/31/02	8/1/02	\$200,113.22	\$ 7.97
90	7/31/02- 8/30/02	9/1/02	\$203,215.35	\$ 7.97
91	8/30/02- 9/30/02	10/1/02	\$206,718.29	\$ 7.97
92	9/30/02- 10/31/02	11/1/02	\$210,273.75	\$ 7.97
93	10/31/02- 11/29/02	12/1/02	\$ 60,212.37	\$ 7.97

**Purported Account for Splash of Tile, Inc.,
Attn: M.B., No. 51752091**

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
94	10/30/02- 11/29/02	12/1/02	\$106,162.41	no account

Purported Account for B & B Tile, Inc., Attn: Y.B., No. 51752105

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
95	10/31/02- 11/29/02	12/1/02	\$ 50,298.41	no account

Account for M.B. & L.B. JTWROS, No. 51752025

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
96	4/30/02- 5/31/02	6/1/02	\$147,809.32	\$141,462.96
97	5/31/02- 6/28/02	7/1/02	\$138,105.89	\$130,391.93
98	6/28/02- 7/31/02	8/1/02	\$133,040.40	\$ 11,850.34
99	7/31/02- 8/30/02	9/1/02	\$133,841.34	\$ **
100	8/30/02- 9/30/02	10/1/02	\$136,659.42	\$ **
101	9/30/02- 10/31/02	11/1/02	\$149,033.67	\$ **

** == substantially unchanged from 8/1/02

Purported Account for M.B. & L.B. JTWROS, No. 51751897

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
102	12/31/01- 1/31/02	2/1/02	\$101,528.11	no account
103	1/31/02- 2/28/02	3/1/02	\$153,231.45	no account
104	2/28/02- 3/28/02	4/1/02	\$158,012.84	no account
105	3/28/02- 4/30/02	5/1/02	\$117,182.36	no account
106	4/30/02- 5/31/02	6/1/02	\$119,550.32	no account
107	5/31/02- 6/28/02	7/1/02	\$147,504.83	no account

Purported Account for M.B. & L.B. JTWROS, No. 51751897 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
108	6/28/02- 7/31/02	8/1/02	\$149,888.99	no account
109	7/31/02- 8/30/02	9/1/02	\$151,983.15	no account
110	8/30/02- 9/30/02	10/1/02	\$154,585.87	no account
111	9/30/02- 10/31/02	11/1/02	\$157,167.36	no account
112	10/31/02- 11/29/02	12/1/02	\$ 83,375.76	no account

Purported Account for M.B. & L.B. JTWROS, No. 51752074

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
113	10/31/02- 11/29/02	12/1/02	\$ 78,641.02	no account

Purported Account for M.B., No. 51751909

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
114	3/28/02- 4/30/02	5/1/02	\$104,789.42	no account
115	4/30/02- 5/31/02	6/1/02	\$132,047.83	no account
116	5/31/02- 6/28/02	7/1/02	\$135,070.01	no account
117	6/28/02- 7/31/02	8/1/02	\$137,172.65	no account
118	7/31/02- 8/30/02	9/1/02	\$148,822.71	no account

Purported Account for M.B., No. 51751909 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
119	8/30/02- 9/30/02	10/1/02	\$151,416.90	no account
120	9/30/02- 10/31/02	11/1/02	\$153,995.54	no account
121	10/31/02- 11/29/01	12/1/02	\$ 81,866.95	no account

Purported Account for M.B., No. 51752049*

*True Account 51752049 in name of Blue Star Tradelines

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
122	10/31/02- 11/29/02	12/1/02	\$ 76,829.13	\$ 47.38

Purported Account for Y.B., No. 51751929

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
123	3/28/02- 4/30/02	5/1/02	\$ 40,549.22	no account
124	4/30/02- 5/31/02	6/1/02	\$ 41,150.34	no account
125	5/31/02- 6/28/02	7/1/02	\$ 42,063.56	no account
126	6/28/02- 7/31/02	8/1/02	\$ 42,730.75	no account
127	7/31/02- 8/30/02	9/1/02	\$ 49,932.69	no account
128	8/30/02- 9/30/02	10/1/02	\$ 50,806.51	no account
129	9/30/02- 10/31/02	11/1/02	\$ 51,667.64	no account

Purported Account for Y.B., No. 51751929 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
130	10/31/02- 11/29/02	12/1/02	\$ 58,969.79	no account

Purported Account for G.Sh., c/o A.N., No. 51751970

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
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131	2/28/02- 3/28/02	4/1/02	\$110,926.27	no account
132	3/28/02- 4/30/02	5/1/02	\$129,856.60	no account
133	4/30/02- 5/31/02	6/1/02	\$329,615.29	no account
134	5/31/02- 6/28/02	7/1/02	\$347,656.82	no account
135	6/28/02- 7/31/02	8/1/02	\$404,032.67	no account
136	7/31/02- 8/30/02	9/1/02	\$440,898.78	no account
137	8/30/02- 9/30/02	10/1/02	\$450,520.43	no account
138	9/30/02- 10/31/02	11/1/02	\$506,578.75	no account
139	10/31/02- 11/29/02	12/1/02	\$543,146.26	no account
140	11/29/02- 12/31/02	1/1/03	\$558,302.96	no account
141	12/31/02- 1/31/03	2/1/03	\$585,907.69	no account

Purported Account for G.Sh., c/o A.N., No. 51751970 (cont'd)

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
142	1/31/03- 2/28/03	3/1/03	\$619,158.37	no account
143	2/28/03- 3/31/03	4/1/03	\$684,603.10	no account

144	3/31/03- 4/30/03	5/1/03	\$708,482.97	no account
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Account for LA Commodities, c/o A.N., No. 51752073*

*True Account 51752073 in name of Equity Allocation Partners

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
145	7/31/02- 8/30/02	9/1/02	\$441,024.73	\$265,554.41
146	8/30/02- 9/30/02	10/1/02	\$453,872.94	\$139,344.76
147	9/30/02- 10/31/02	11/1/02	\$944,241.17	\$ 74,948.49
148	10/31/02- 11/29/02	12/1/02	\$1,091,346.21	\$ 85,793.68
149	11/29/02- 12/31/02	1/1/03	\$1,190,797.81	\$ 5,587.40
150	12/31/02- 1/31/03	2/1/03	\$1,478,056.63	\$ 1,021.98
151	1/31/03- 2/28/03	3/1/03	\$2,554,817.60	\$709,588.62

Account for MILEX Fund, L.P., c/o A.N., No. 51753204

<u>Count</u>	<u>False Statement Date</u>	<u>Approximate Mailing Date</u>	<u>False Account Balance</u>	<u>True Account Balance</u>
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152	2/28/03- 3/31/03	4/1/03	\$2,724,053.71	\$ -0-
153	3/31/03- 4/30/03	5/1/03	\$2,416,422.64	\$ -0-

All in violation of Title 18, United States Code, Sections 1341
and 2.

COUNTS 154 - 169

(ANNUAL MAILINGS TO PARTICIPANTS IN F.O.X. INTERNATIONAL)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of the Introduction to this Indictment are incorporated here.

2. On or about January 25, 2002, in the Eastern District of Pennsylvania, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme and attempting to do so, knowingly caused to be placed in an authorized depository for mail matter in the Eastern District of Pennsylvania to be sent or delivered by the Postal Service to the participants in F.O.X. International Relations, Inc., an investment club, the following letters, reporting each participant's purported annual earnings from his or her investment with F.O.X. International Relations, Inc., when in fact no such account existed for F.O.X. International Relations, Inc.:

<u>Count</u>	<u>Recipient</u>	<u>Purported Earnings</u>	<u>Purported Principal Balance</u>
154	L.E.	\$8,4000.00	\$ 98,400.00
155	B.G. & N.P.	\$1,190.00	\$ 13,150.00
156	I.F. & I.G.	\$1,570.00	\$ 17,300.00
157	M.Se. & T.Se.	\$1,500.00	\$ 12,300.00
158	P.Sh. & T.Sh.	\$2,300.00	\$ 23,000.00
159	M.So. & Y.So.	\$4,010.00	\$ 44,150.00

3. On or about January 29, 2003, in the Eastern District of Pennsylvania, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme and attempting to do so, knowingly caused to be placed in an authorized depository for mail matter in the Eastern District of Pennsylvania to be sent or delivered by the Postal Service to the participants in F.O.X. International Relations, Inc., an investment club, the following letters, reporting each participant's purported annual earnings from his or her investment with F.O.X. International Relations, Inc., when in fact no such account existed for F.O.X. International Relations, Inc.:

<u>Count</u>	<u>Recipient</u>	<u>Purported Earnings</u>	<u>Purported Principal Balance</u>
160	L.E.	\$7,870.00	\$106,270.00
161	T.G.	\$1,500.00	\$ 51,500.00
162	B.G. & N.P.	\$1,300.00	\$ 14,450.00
163	I.F. & I.G.	\$1,560.00	\$ 18,860.00
164	V.Ra. & Y.Ra.	\$6,020.00	\$ 86,020.00
165	Y.Re.	\$ 850.00	\$ 12,000.00
166	M.Se. & T.Se.	\$1,230.00	\$ 13,530.00

<u>Count</u>	<u>Recipient</u>	<u>Purported Earnings</u>	<u>Purported Principal Balance</u>
167	M.Sh. & I.Sh.	\$2,110.00	not stated
168	P.Sh. & T.Sh.	\$2,320.00	\$ 25,320.00
169	M.So. & Y.So.	\$3,310.00	\$ 47,460.00

All in violation of Title 18, United States Code, Sections 1341
and 2.

COUNT 170

(ADDITIONAL FALSE MAILING TO PARTICIPANT IN F.O.X. INTERNATIONAL)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of the Introduction to this Indictment are incorporated here.

2. In or around April 2003, in the Eastern District of Pennsylvania, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme and attempting to do so, knowingly caused to be placed in an authorized depository for mail matter in the Eastern District of Pennsylvania to be sent or delivered by the Postal Service to T.G., a participant in F.O.X. International Relations, Inc., an investment club, a letter reporting the receipt of T.G.'s \$6,500 check payable to F.O.X. International Relations, Inc., and the credit of those funds to her investment, when in fact the defendant MICHAEL KOGAN deposited the check into his own corporate bank account at Citizen's Bank.

In violation of Title 18, United States Code, Sections 1341 and 2.

COUNTS 171-172
(PROVIDING FALSE F.O.X. INTERNATIONAL ACCOUNT INFORMATION
VIA THE INTERNET)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of the Introduction to this Indictment are incorporated here.

2. On or about May 1, 2003, in the Eastern District of Pennsylvania and elsewhere, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme, caused to be transmitted by means of wire communication in interstate commerce, through SnIP, an internet service provider located in New Jersey, to M.L., located in Pennsylvania, the writings, signs, signals, pictures and sounds, described below:

<u>Count</u>	<u>Web Site</u>	<u>Description</u>
171	www.pennfin.com	Penn Financial Group, Inc., account status report, showing a purported account balance of more than \$350,000 for F.O.X. International account number 51752194, as of March 21, 2003, when, in fact, no such account existed
172	www.pennfin.com	Penn Financial Group, Inc., account status report, showing a purported account balance of more than \$1.9 million for F.O.X. International account number 51751813, as of April 1, 2003, when that account was, in fact, titled to the wife of the defendant MICHAEL KOGAN and had a balance of \$-0-

All in violation of Title 18, United States Code, Sections 1343
and 2.

COUNTS 173 - 175
(FRAUDULENT FAXES)

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1 through 10 of the Introduction to this Indictment are incorporated here.

2. On or about the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, having devised and intending to devise the scheme described above, the defendant

MICHAEL KOGAN,

for the purpose of executing the scheme, caused to be transmitted by means of wire communication in interstate commerce the writings, signs, signals, pictures and sounds, constituting the facsimile transmissions described below, from the defendant MICHAEL KOGAN at Penn Financial Group, Inc. in Pennsylvania at telephone number (215) 886-7928 to M.B., L.B. and Y.B., in New Jersey at telephone number (908) 542-1121:

<u>Count</u>	<u>Facsimile Date</u>	<u>Document</u>
173	October 11, 2001	instructions to the victims from defendant MICHAEL KOGAN for wiring funds for the Splash of Tile, Inc. account to Fiserv
174	May 6, 2002	memo to the victims from defendant MICHAEL KOGAN containing recommendations on diversification of their stock portfolio

<u>Count</u>	<u>Facsimile Date</u>	<u>Document</u>
175	July 9, 2002	false list of stocks purportedly held by the victims with a handwritten note by defendant MICHAEL KOGAN to the victims

All in violation of Title 18, United States Code, Sections 1343 and 2.

NOTICE OF FORFEITURE

1. As a result of the violations of Title 18, United States Code, Sections 1341 and 1343, set forth in Counts 1 through 175 of this Indictment, the defendant

MICHAEL KOGAN

shall forfeit to the United States of America any property, real or personal, that constitutes or is derived from proceeds traceable to the commission of such offenses, as charged in this Indictment, including, but not limited to, the sum of not less than \$4 million.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

(a) cannot be located upon the exercise of due diligence;

(b) has been transferred or sold to, or deposited with, a third party;

(c) has been placed beyond the jurisdiction of the Court;

(d) has been substantially diminished in value; or

(e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 28, United States Code, Section 2461(c), incorporating 21 U.S.C. § 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 28, United States Code, Section 2461(c) and
Title 18, United States Code, Section 981(a)(1)(C).

A TRUE BILL:

FOREPERSON

PATRICK L. MEEHAN
United States Attorney